

REMARKS

Claims 1-9 are pending in the application.

Claim of Foreign Priority

The present application claims foreign priority from Japanese application 2000-024128 filed February 1, 2000. The certified copy of the priority document was submitted concurrently with the filing of the present application. The Examiner has not acknowledged receipt of the documents.

It is respectfully requested the Examiner acknowledge priority and receipt of the certified copy of the priority document.

IDS

An IDS and 1449 form were submitted concurrently with the filing of the present application. The Examiner has not returned the 1449 form indicating the references were considered.

It is respectfully requested the Examiner consider the IDS information and return the 1449 form indicating the consideration.

Prior Art Rejection

Claims 1-9 were rejected under 35 U.S.C. §102(e) as being anticipated by Nielsen (U.S. 2001/0003830). The Office Action quotes pre-AIPA 35 U.S.C. 102(e) language. It is respectfully submitted that Nielsen qualifies as a reference under post-AIPA revised by the Intellectual Property and High Technology Technical Amendments Act of 2002.

The rejection of claims 1-9 is being herein respectfully traversed for the following reasons:

Regarding independent claim 1:

In the Office Action paragraphs 46, 47 and 53 are referenced to show anticipation of applicant's claimed invention. However applicant's claimed invention recites: "a detector detecting a packet passing through a network and a fact that a whole traffic quantity exceeds a predetermined threshold value."

Nielsen fails to disclose a "threshold" that is related to a whole traffic quantity. It is to be noted that although paragraph 47 includes the term "threshold", this threshold is merely related to a difference between the allocated bandwidth and the utilized bandwidth.

Therefore, while Nielsen describes a threshold of a difference between the allocated bandwidth and the utilized bandwidth, Nielsen fails to disclose "a detector detecting a packet passing through a network and a fact that a whole traffic quantity exceeds a predetermined threshold value" as claimed in independent claim 1.

Applicant's claim 1 also recites: "a bandwidth managing portion detecting a bandwidth occupant based on the per-user-information in the database and selecting a corresponding bandwidth control method when the detector has detected that the whole traffic quantity has exceeded the predetermined threshold value" and "a bandwidth controller performing a bandwidth control to the bandwidth occupant based on the bandwidth control method selected by the bandwidth managing portion."

Because Nielsen does not describe the whole traffic quantity has exceeded the predetermined threshold value, there is no teaching of the bandwidth managing portion or the bandwidth controller as in applicant's claim 1.

Thus, Nielsen fails to disclose the network control apparatus claimed in independent claim 1.

Accordingly, it is respectfully submitted that independent claim 1 is patentably distinguishable over Nielsen under 35 U.S.C. §102(e) and the rejection should be withdrawn.

Regarding dependent claims 2-9:

Claims 2-9 are likewise patentable at least because of their direct or indirect dependency from independent claim 1.

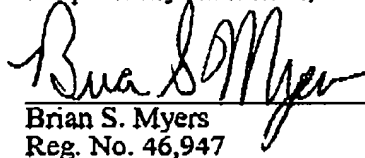
However, applicant's claims 2-9 each provide additional limitations which are not disclosed in Nielsen in the portions referenced to in the Office Action. For example, claim 2 recites a variable value as the predetermined threshold value. The Office Action points to paragraph 54 of Nielsen. However P54 only describes an allocated bandwidth variable but provides nothing concerning a variable value as a predetermined threshold value.

It's also noted that the applicant understands that in the Office Action the wording of claim 8 in item 10 of the office action (page 4) was mistakenly used for rejecting claim 7.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,


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